

CC Docket No. 94-102

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**HOUSE OF REPRESENTATIVES
THE NINETEENTH LEGISLATURE**

STATE OF HAWAII
STATE CAPITOL
HONOLULU, HAWAII 96813



April 3, 1998

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The Honorable William E. Kennard
Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington D.C. 20554

RE: Petition for Reconsideration and Clarification of the
Cellular Telecommunications Industry Association, filed
February 17, 1998 in CC Docket No. 94-102, RM-8143

Dear Mr. Kennard,

The Hawaii Legislature is considering bills in both Houses that would permit the imposition of a surcharge to recover the costs of wireless E911 services when the services are deployed by the wireless carriers. As Chair of the House Consumer Protection and Commerce Committee, I am particularly concerned about the public safety and economic impacts of the proposed legislation on the customers of the wireless carriers in Hawaii, as well as the wireless providers. I have held the House bill in order to seek clarification from the Federal Communications Commission (Commission).

I understand that the Commission requires the provision of wireless E911 once a carrier receives a request from a public safety agency that is capable of receiving the appropriate data and when "... a mechanism for the costs relating to the provision of such services is in place." Report and Order, CC Docket No. 94-102, RM-8143, FCC 96-264, para 11 (1996) (E911 First Report and Order). I further understand that the Commission has not prescribed "... a particular cost recovery methodology, because (1) the record did not demonstrate a need for such action; and 2) an inflexible Federal prescription would deny carriers and Government officials the freedom to develop innovative cost recovery solutions tailored to local conditions and needs." Memorandum Opinion and Order, CC Docket No. 94-102, RM-8143, FCC 97-402, para.143 (December 23, 1997). Finally, the Petition for Reconsideration and Clarification of the Cellular Telecommunications Industry Association (CTIA Petition) was filed on

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page 2

February 17, 1998 in this matter. At pages 17-18, the CTIA asks the Commission to prohibit a state or local safety agency from requiring wireless E911 services while the agency also demands that the wireless carriers recover the costs of the services from their customers. This issue on reconsideration heightens the House's interest in seeking the guidance of the Commission regarding what Hawaii must do or refrain from doing to comply with the Commission's wireless E911 policies and program.

Because the Commission has not prescribed a specific solution to the cost recovery issue and because the Commission may respond to the CTIA Petition's proposed prohibition by elaborating on the proper means of cost recovery, we pose the following questions:

1. May the State of Hawaii not mandate a surcharge or other means of cost recovery for E911 services and, instead, remain silent on the issue of cost recovery and allow the wireless carriers to recover their costs through market-based pricing of services?
2. If the State of Hawaii chooses not to mandate a surcharge or other means of cost recovery for E911 services and instead allows cost recovery through the market place, would wireless carriers still be required to provide E911 services to the public when properly requested to do so by a safety agency?

These questions continue to be significant in the Hawaii Legislature's debate. However, we thought it most prudent to seek a response from the Commission whether Federal law or policies would prohibit the Hawaii Legislature from allowing cost recovery through the market place rather than through a State-mandated recovery mechanism.

We look forward to your response on this issue.

Very sincerely yours,


Ron Menor
State Representative

cc: Daniel Grosh, Attorney, FCC, Wireless Bureau
Josh Roland, Staff to the FCC Bureau Chief